

IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

BARRY YOUNOUSSA,

Petitioner

v.

CHRISTIAN SMITH,

Respondent

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CIVIL NO. 3:CV-17-1403

(Judge Conaboy)

FILED
SCRANTON

AUG 14 2017

MEMORANDUM
Background

Per CTR
DEPUTY CLERK

This pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 was filed by Barry Younoussa, an inmate presently confined at the Cambria County Prison, Ebensburg, Pennsylvania. The required filing fee has not been paid and an in forma pauperis application has not been filed. For the reasons outlined herein, Petitioner's action will be transferred to the United States District Court for the Western District of Pennsylvania.

Named as sole Respondent is Warden Christian Smith of the Cambria County Prison.¹ Petitioner initiated this action regarding his ongoing detention by the Bureau of Immigration and Customs Enforcement (ICE) at the Cambria County Prison.

Younoussa's present action does not challenge the legality of

¹ The only properly named Respondent in a federal habeas corpus action is Petitioner's custodial official, in this case Warden Smith. See 28 U.S.C. § 2242.

his deportation but, rather, his indefinite detention pending removal. Petitioner indicates that his removal within the foreseeable future is unlikely as he has an appeal pending before the Board of Immigration Appeals (BIA). He appears to be asserting that his detention in ICE custody while awaiting deportation violates his constitutional rights pursuant to the standards announced in Zadvydas v. Davis, 533 U.S. 678 (2001). He seeks his release on bond. See Doc. 1, p.11.


Discussion

Relief pursuant to § 2241 may only be sought in the district court having jurisdiction over a petitioner's custodian. See Rumsfeld v. Padilla, 542 U.S.426, 442 (2004) (jurisdiction for habeas corpus petitions challenging present physical confinement lies in only one district; the district of confinement); Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 494-95 (1973).

Petitioner's present place of confinement, the Cambria County Prison, is located within the jurisdiction of the United States District Court for the Western District of Pennsylvania. See 28 U.S.C. § 118(c).

As such, this Court lacks jurisdiction over Warden Smith. A court may transfer any civil action for the convenience of the parties or witnesses, or in the interest of justice, to any district where the action might have been brought. 28 U.S.C. § 1404(a). Consequently, this matter will be transferred to the United States District Court for the Western District of Pennsylvania pursuant to

§ 1404(a). An appropriate Order will enter.


RICHARD P. CONABOY
United States District Judge

DATED: AUGUST 14th 2017